IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 2563 of 2007(E)

PETITIONER:

DR.R.SANTHA DEVI ANTHERJANAM,
ASSISTANT DENTAL SURGEON, PRIMARY HEALTH CENTRE,
MANNAR P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.D.SOMASUNDARAM
SRI.D.SREEKUMAR

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
HEALTH & FAMILY WELFARE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HEALTH SERVICE,
THIRUVANANTHAPURAM.

3. THE DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM.

4. THE COMMISSIONER OF GOVERNMENT
EXAMINATION, THIRUVANANTHAPURAM.

5. THE DENTAL COUNCIL OF INDIA, NEW DELHI.

ADDL. RESPONDENTS:

6. DR.JAYAN JAMES, AGED 30 YEARS,
S/O.J.J.JAMES, JYOTHI BHAVAN, HOUSE NO.536,
NANTHIRIKKAL, KUNDARA, KOLLAM.

7. DR.SIVAKUMAR, AGED 30 YEARS,
S/O.RAMAKRISHNAN CHETTIAR, KAILAS,
NEMOM P.O., TRIVANDRUM.

8. DR.SUJATHA VARMA, AGED 34 YEARS, 1/2768,
SREEDEVI, EAST HILL ROAD, CALICUT-6.

9. DR.BENNETT ATLIN CORREYA, S/O.BENNY CORREYA,
AGED 33 YEARS, ASHA DALE, NALLALAM P.O., CALICUT-27.

10. KERALA HEALTH SERVICE DENTAL SURGEONS ASSOCIATION, REP. BY ITS PRESIDENT DR.A.AJITH KUMAR, S/O.KRISHNAN, WORKING AS ASSISTANT DENTAL SURGEON, TALUK HEAD QUARTERS HOSPITAL, CHAVAKKAD, THRISSUR.

11. KERALA HEALTH SERVICE DENTAL SURGEONS ASSOCIATION REP. BY ITS SECRETARY DR.KRISHNAKUMAR, AGED 37 YEARS, S/O.GOPINATH, WORKING AS ASSISTANT DENTAL SURGEON, GOVT. SPECIALITY HOSPITAL, ADOOR, PATHANAMTHITTA, RESIDING AT KALLIKULANGARA, PUZHAVATHU, CHANGANASSERY, KOTTAYAM.

12. KERALA HEALTH SERVICE DENTAL SURGEONS ASSOCIATION REP. BY ITS INDIVIDUAL COMPONENT DR.A.Q.AZAD, AGED 36 YEARS, NOW WORKING IN TALUK HEADQUARTERS HOSPITAL, KARUNAGAPPALLY, KOLLAM DIST.

(ADDL. RESPONDENTS 6 TO 9 ARE IMPLEADED AS PER ORDER DT.30.1.2007 IN I.A. NO.1443/2007.)

(ADDL. RESPONDENTS 10 TO 12 ARE IMPLEADED AS PER ORDER DT.2.3.2007 IN I.A. NO.2393/2007.)

R1 TO 4 BY G.P. SRI.HOOD
R5 BY ADV. SRI.BINOY VASUDEVAN, SC, DCI
R6 TO 9 SRI.V.GIRI
SRI.A.RASHID
R10 TO 12 BY ADV. SRI.M.V.AMARESAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/04/2007, ALONG WITH WPC NOS. 3176 OF 2007, 4772 OF 2007 & 11969 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE PROSPECTUS FOR ADMISSION TO THE POST GRADUATE COURSE IN DENTAL SURGERY.

P2: TRUE COPY OF THE RELEVANT PAGES OF PROSPECTUS FOR ADMISSION TO MEDICAL P.G. DEGREE/DIPLOMA COURSES 2007.

P3: TRUE COPY OF THE REPRESENTATION SUBMITTED BYTHE PETITIONER TO RESPONDENT DT.19.1.2007.

RESPONDENT'S EXHIBITS:

R6(a): TRUE COPY OF EXTRACT OF THE REGULATIONS FRAMED BY DENTAL COUNCIL OF INDIA.

R6(b): TRUE COPY OF GOVT. ORDER DT.31.12.2006.

R5(c): STRUE COPY OF G.O. DT.5.1.2007.

TRUE COPY

P.A. TO JUDGE

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).Nos.2563/2007-E, 3176/2007-C

& 4772/2007-R

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Dated this the 23rd day of February, 2007.

O R D E R

WP(C).No.2563/2007 is by an in-service Dentist. WP (C).No.3176/2007 is by an open market candidate aspiring to join the M.D.S.course. WP(C).No.4772/2007 is by yet another in-service candidate.

2. The short issue that arises for decision in these writ petitions is as to whether the in-service candidates who aspire for admission to M.D.S.course have to be subjected to a competitive entrance examination and still further, whether merit among the in-service candidates has to be measured or the State Government is justified in making admissions from in-service candidates on the basis of seniority. As of now, going by the prospectus, the open

market candidates have to go for an entrance examination, while the in-service candidates do not have to compete at the entrance examination. On the basis of WP(C).Nos. 2563 and 3176 of 2007, this Court had directed that admissions and receipt of applications etc. will be provisional and subject to the result of those writ petitions. Going by that interlocutory order, the official respondents appeared to have taken a stand that the in-service candidates will also have to go for entrance examination. That is challenged in WP(C).No.4772/2007.

3. This Court issued an order dated 12-2-2007 in WP (C).No.4772/2007 that if it is ultimately held that the petitioners in that writ petition are also liable to take the entrance examination, their fee shall be received later on and the application submitted by them in terms of the prospectus shall be dealt with until then without insisting on their appearing for the entrance examination.

4. As of now, the learned Government Pleader submits that entrance examination is scheduled tomorrow and there are only two in-service candidates for the service quota.

Under such circumstances, it is directed that no allotment of seats to the in-service quota will be made until further orders. The in-service candidates would sit for the entrance examination or not and they will take the risk of such action as a result of these writ petitions.

Post on 27-2-2007.

Hand over to G.P. also.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-